S.B.Civil Revision Petition No.82/2006

Durga Prasad.
vs.
Raj Kumar.

Date : 8.8.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. GR Goyal, for the petitioner.
Mr. HK Jain, for the respondent.

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At the request of learned counsel for the parties, this appeal is finally heard and decided.

The petitioner is aggrieved against the order dated 10.1.2006 whereby the learned District Judge, Sri Ganganagar allowed the application filed under Order 9 Rules 8 and 9 CPC filed by respondent for restoration of review petition.

Brief facts of the case are that an arbitration award was passed on 22.10.1986. The award was made Rule of the Court on 3.3.1987 by the Court of District Judge, Sri Ganganagar. The respondent preferred a review petition against the Rule of Court dated 3.3.1987 after more than 12 years i.e. 24.11.1999. Said review petition was dismissed on 25.5.2000 as not pressed on pleading by learned counsel for the respondent. Against the said dismissal, the

respondent submitted application for restoration of the review petition after more than 2 years i.e. On 12.11.2002. The trial court allowed the said application and restored the review petition. Hence, this revision petition.

According to learned counsel for the petitioner, it is clear from the facts that the award was passed in the year 1986 and was made Rule of Court on 3.3.1987 and the review petition was filed after more than 12 years and that too was dismissed as not pressed and thereafter, the application for restoration of the review petition has been filed again after 2½ years, still the court below has restored the review petition which is nothing but an abuse of process of the Court. It is also submitted that even on merits also, there was no case of the respondent because of the reason that the Rule of the Court was issued by the court below because consent was given by the respondent.

Learned counsel for the respondent vehemently submitted that the alleged consent for making award the Rule of Court was given by getting forged signatures of respondent and at that time, the respondent was in jail custody and, therefore, he had no knowledge. As soon as the respondent got knowledge of the Rule of Court dated 3.3.1987, he immediately submitted review petition in 1999. The delay in filing the review petition was fully explained by the respondent. It is also submitted that the review was dismissed because the counsel for respondent did not press the same but for that, counsel was not authorised by the

respondent. It is also submitted that the respondent came to know about the act of his counsel and thereafter, he filed the restoration application.

I considered the submissions of learned counsel for the parties and perused the facts of the case.

It is clear that in a matter which is said to be a forum for Alternate Dispute Redressal, an award was passed in the year 1986 and was made Rule of Court in 1987 was sought to be challenged in the year 1999 and thereafter, the application challenging the Rule of Court was dismissed on the counsel pleading no instructions. After 2½ years, the respondent submitted application for restoration of the review petition on the plea that counsel was not authorised to not press the review petition and he did not inform the respondent about the decision of the review petition. The conduct of the respondent was totally ignored by the court below and by no cogent reason, the court below allowed the application for restoration of review petition and granted a license to such a negligent litigant who kept the litigation pending for such a long period. The delay for any of the action has not been explained still the restoration application was allowed by the court below. The impugned order suffers from a serious error of law and if allowed to stand, it will occasion only failure of justice, therefore, the revision petition deserves to be allowed.

In view of the above, this revision petition is

allowed, the order dated 10.1.2006 is set aside and the application for restoration of the review petition is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya